

Attorney Docket Number: RI-61182/JC



#3

PATENT

**REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY
(BY INVENTORS)**

To the Assistant Commissioner of Patents:

A. DECLARATION BY THE INVENTORS

As below named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names, we believe we are the original, first and joint inventors of the subject matter that is described and claimed in the letters patent number 5,687,865, granted on November 18, 1997, and for which invention I solicit a reissue patent on the invention entitled **SPILL-REDUCTION CAP FOR FLUID CONTAINER**

application Serial No. 09/375,164, filed August 16, 1999.

**ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR
(37 C.F.R. §1.175)**

We hereby state that we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

**STATEMENT OF INOPERATIVENESS OR INVALIDITY OF ORIGINAL PATENT
(37 C.F.R. §1.175)**

That we believe the original patent to be
☒ partly

inoperative or invalid by reason of (37 C.F.R. §1.175(a)(1)):

☒ the patentee claiming more or less than the patentee had a right to claim in the patent.

REASONS FOR INVALIDITY

The Title Page and the first column of the Specification have been amended in accordance with the Certificate of Correction of this Patent issued November 28, 1998 and to reflect that S.N. 436,936 has issued as Pat. No. 5,662,281.

incorrect
Claim 1 has been amended to correct the spelling of "skirt" in line 4. It has also been broadened to state that there may be more than one scoreline. Further, that at least one scoreline is positioned on the bottom and further that a probe forced into the well splits the bottom along the scoreline.

Claim 4 has been amended to correct its dependency. It is obviously dependent upon Claim 3.

Claim 5 has been amended to make it dependent upon Claim 9 instead of Claim 1; otherwise there would be no antecedent for some of the words in Claim 5. Further it is spelled out that the absence of relative rotation between the cap and neck is "by external means".

Claim 8 has been broadened to define a means for removing a portion of the locking bead rather than a portion of the skirt.

Claim 10, lines 4 and 5 has been amended to state that the first groove thread has a thread end rather than a to state that it is formed as a ramp of reduced thickness. In the 5th line from last line of Claim 10 the word "ramp" has been changed to --thread end--.

In Claim 11, line 3 the word "and" (first occurrence) has been deleted as a typographical error.

In Claim 12, has been made dependent upon Claim 10 instead of Claim 1; otherwise there would be no antecedents for some of the words in the claim.

Claim 14 has been broadened to eliminate from the last two lines the words "said guide ribs being triangular in vertical cross-section".

Claim 17 has been clarified to state that the three stretches of the scoreline lie in a common plane containing the axis of the well rather than stating that the plane is substantially diametric relative to the well.

Claim 18 is now made dependent upon Claim 1. It is further stated that the probe when forced into the well first contacts the rib to initiate splitting the bottom (of the well) along the scoreline. This is a broadening of the claim.

New Claim 26 recites a combination of a probe having a blunt tip, a cap, and a container

having a neck. U.S. Patent 4,699,188 shows a sharp edged probe which splits the well bottom. Such a sharp edge of the probe would be dangerous to persons installing water bottles in a dispenser containing such a probe. Claim 26 recites that the probe has a blunt tip and the blunt top is engagable with the bottom of the well of the cap to split the scoreline on the bottom of the cap so that the probe may enter the neck. Claims 27 and 28 are dependent directly or indirectly upon new Claim 26.

The Preliminary Amendment submitted herewith makes additional changes as set forth in the Remarks thereof, which are incorporated herein by reference.

We verily believe the original patent to be wholly or partly inoperative by reason of patentees claiming less than they had a right to claim in the patent in that the original patent claims required that the scoreline extend along the side wall of the well as well as across the bottom whereas it should have claimed merely that the scoreline extended across the bottom as is now set forth in amended Claims 1-25 and newly presented Claims 26-28, as amended by the Preliminary Amendment submitted herewith.

HOW ERRORS AROSE

The foregoing errors arose without any deceptive intention on the part of applicants.

The error arose because of failure of communication between the inventors and their attorney in that the inventors did not convey to the attorney that their invention was broad enough to comprise a structure in which the scoreline extended only across the bottom of the well in the cap as distinguished from what was shown in the drawings where the scoreline extended along the side wall as well as the bottom.

HOW AND WHEN INVENTORS BECAME AWARE OF ERRORS

The inventors did not become aware of this error in the claims until approximately one month before the submission of this reissue application.

The inventors became aware of the error in the breadth of Claim 1 during the course of a meeting between inventor Daniel Luch and his attorney Julian Caplan on or about April 8, 1999, when a review of the patent claims was conducted.

POWER OF ATTORNEY

We hereby appoint the following practitioners to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Harold C. Hohbach, Reg. No. 17,757; Aldo J. Test, Reg. No. 18,048; Thomas O. Herbert, Reg. No. 18,612; Donald N. MacIntosh, Reg. No. 20,316; Edward S. Wright, Reg. No. 24,903; David J. Brezner, Reg. No. 24,774; Richard E. Backus, Reg. No. 22,701; James A. Sheridan, Reg. No. 25,435; Robert B. Chickering, Reg. No. 24,286; Richard F. Trecartin, Reg. No. 31,801; Steven F. Caserza, Reg. No. 29,780; Laura L. Kulhanjian, Reg. No. 33,257; Michael A. Kaufman, Reg. No. 32,988; Janet E. Muller, Reg. No. 35,294; Edward N. Bachand, Reg. No. 37,085; R. Michael Ananian, Reg. No. 35,050; Stephen M. Knauer, Reg. No. 38,208; Robin M. Silva, Reg. No. 38,304; David C. Ashby, Reg. No. 36,432; Julian Caplan, Reg. No. 14,785.

SEND CORRESPONDENCE TO:

Julian Caplan
Flehr Hohbach Test Albritton & Herbert LLP
4 Embarcadero Center, Suite 3400
San Francisco, CA 94111-4187

DIRECT TELEPHONE CALLS TO:

Julian Caplan
(650) 494-8700

DECLARATION

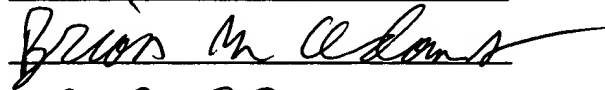
We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

☒ **BY THE INVENTORS**

Full name of sole or
first inventor:

Brian M. Adams

Inventor's signature:



Date:

9-8-99

Citizenship: United States

Residence:

Newark, California

Post Office Address:

c/o Portola Packaging, Inc
890 Faulstich Court, San Jose, CA 95112

Full name of joint or
Second inventor:

Hoa Pham

Inventor's signature:

Hoa Pham

Date:

9/10/99

Citizenship:

United States

Residence:

Mountain View, California

Post Office Address:

c/o Portola Packaging, Inc
890 Faulstich Court, San Jose, CA 95112

Full name of joint or
Third inventor:

Daniel Luch

Inventor's signature:

Daniel Luch

Date:

9/8/99

Citizenship:

United States

Residence:

Morgan Hill, California

Post Office Address:

c/o Portola Packaging, Inc
890 Faulstich Court, San Jose, CA 95112